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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,553	04/11/2001	Richard A. Holub	HLB-001CV	2004
7590	08/19/2005		EXAMINER	
Kenneth J. Lukacher, Esq. South Winton Court Suite 304 3136 Winton Road South Rochester, NY 14623			BLACKMAN, ANTHONY J	
			ART UNIT	PAPER NUMBER
			2676	
			DATE MAILED: 08/19/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/832,553	HOLUB, RICHARD A.	
	Examiner	Art Unit	
	ANTHONY J. BLACKMAN	2676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 January 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 19-26 and 32-46 is/are pending in the application.
- 4a) Of the above claim(s) 39-46 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 19-26 and 32-38 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 39-46 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/6/05 have been fully considered. Examiner agrees with applicant that the primary reference, EVANICKY et al, US Patent No. 6,611,249 anticipated claims 19-27 in their original form. Applicant amended claim language with the following features, adding "a reference for the color white on a surface" (the underlined portions are amended claim language); and an "adjusting step carried out by the user to establish said visual match between said adjusted color of white on said display and said reference for the color white on said surface".

Examiner respectfully disagrees with applicant's view that EVANICKY et al "actually teaches away from the user providing a visual match of color by relying upon a computer to perform such adjustment as set forth at column 4, lines 12-16". Applicant also states that EVANICKY et al "...does not describe or even suggest, the use of any surface providing a reference for the color white".

However, examiner disagrees with applicant's view that EVANICKY et al "teaches away" because EVANICKY et al discloses an exemplary graphics user interface (GUI) shown in fig 17 and col 19, line 58-col 20 line 24 . EVANICKY also disclose screen to paper color matching (col 18, lines 14-28) in association with a (Master) color profile that incorporates color temperature means (equivalent to white point balancing) is used as a reference. It is inherent that the GUI means provides screen to paper processing with reference to the color white because it is well-known in the art that color temperature means is analogous to white point balancing (using the color white as

disclosed in the amended claim language). Further still, the screen-to-paper matching performed by the color profile utilizes color temperature means and the color temperature means is analogous to use of white point balancing means as is well-known in the art.). Therefore, EVANICKY et al overcomes the amended claim language of claim 19. Further, applicant amended claim 19 of claims 19-26 and added new claims 32-46. Claims 32-38 bear claim dependency upon claim 19 and are rejected by EVANICKY et al. Claims 39-42 and claims 43-46 represent two separate groups of independent claims for claims 39 and 43. Claims 39-46 are discussed below and are subject to restriction by original presentation.

Election/Restrictions

2. Newly submitted claims 39-42 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: because claim 39 does not teach a user established white point balancing means with an “offset providing the color of said display”.

Newly submitted claims 43-46 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: a method of remote proofing using a video monitor, including providing a hard-copy image with controlled viewing illumination”.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 39-42 and 43-46 are withdrawn from

consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 36 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant added the following claimed subject matter that was not included within the drawings or the specification, wherein said sensor is one of “an unitary colorimeter” or an “imaging colorimeter”. Claim 36 will be evaluated as best understood.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 19-26 and 32-38 are rejected under 35 U.S.C. 102(e) as being anticipated by EVANICKY et al, US Patent No. 6,611,249. The following underlined phrases represent the amended claim language.

7. As per claim independent claim 19, EVANICKY et al meets the following claim limitations,

a method for measuring a user established white point balancing multiple color channels of a color display (col. 4, ll. 6-37) comprising the steps of:

- a) providing a reference for the color white (col. 4, ll. 6-18, col. 23, ll.1-27) on a surface (please refer to the argument in section 1; col 18, lines 14-28);
- b) providing on the display at least the color white (col. 11, ll. 4-13 and col. 17, ll. 64-col. 18, ll. 3);
- c) adjusting the color channels of the display to change the color white on the display to visually match/("desired set of optical characteristics")the reference (col. 17, ll. 1-19), in which said adjusting step is carried out by the user to establish said visual match between said adjusted color of white on said display and said reference for the color white on said surface (please see the argument in section 1; col 18, lines 14-28). and and
- d) measuring with a sensor directed to the display the adjusted color white to obtain an updated white point of the display (fig. 9, element 800b, col. 5, ll. 1-4, col. 4, ll. 6-37).

8. As per claim 20, EVANICKY et al meet limitations of claim 19, including, further comprising the step of storing the measured white point on a computer coupled to the display and sensor (col. 5, ll. 66-col. 6, ll. 12, and ll. 34-57, col. 13, ll. 14-28).

8. As per claim 21, EVANICKY et al meet limitations of claim 20, including, further comprising the step of updating color transformation information by the computer for displaying color in accordance with the measured white point (col. 4, ll. 6-37).

9. As per claim 22, EVANICKY et al meet limitations of claim 19, including, information by said computer of the measured white point with other computers via a network coupling said computer with said other computers (col. 6, ll. 58-col. 7, ll. 12), in which said other computers are coupled to one or more color rendering devices and said other computers update color transformation information for said devices in response to said shared information to render color substantially the same as the color on the display (col. 6, ll. 58-col. 7, ll. 12).

10. A per claim 23, EVANICKY et al meet limitations of claim 19, including, further comprising the step of illuminating the reference while said adjusting step is carried out (col. 4, ll. 6-37).

11. As per claim 24, EVANICKY et al meet limitations of claim 20, including, comprising the step of verifying the white point by repeating step (b) in accordance with the measured white point (col. 4, ll. 6-37), and repeating steps (c) and (d) when the white color display does not match the reference (col. 4, ll. 6-37- please note that the process continues “*...until* a precise match is achieved”).

12. As per claim 25, EVANICKY et al meet limitations of claim 19, including, further comprising the step of measuring tone reproduction curves/grayscale ramps in one or more color channels on the display with said sensor (figures 11a-11b/grayscale and col. 19, ll. 21-30).

13. As per claim 26, EVANICKY et al meet limitations of claim 25, including, further comprising the steps of:
storing the measured white point and tone reproduction curves on a computer coupled to the display and sensor (col. 5, ll. 66-col. 6, ll.12); and
updating color transformation information by the computer for the display in accordance with the measured white point and tone reproduction curves (col. 3, ll. 42-61 and col. 24, ll. 25-33).

14. As per claim 32, EVANICKY et al meet limitations of claim 19, including wherein said display is a color video monitor (see fig 9 , fig 15 and fig 17, both color displays that bear similar results with the color monitor as claimed).

15. As per claim 33, EVANICKY et al meet limitations of claim 32, including wherein said display is located at one site of a network of sites (col 6, lines 13-33), and said one site is capable of communication over said network to one or more other sites (col 6, lines 13-33 for at least one site), said method further comprising the step of storing said measured color of white on a computer system (col. 5, ll. 66-col. 6, ll. 12, and ll. 34-57, col. 13, ll. 14-28), coupled to said sensor (fig 9 element 800b) and said display (fig 9 element 216), at said one site with information identifying or locating said other sites (col 6, lines 19-33 disclose that "... the flat panel monitor is addressed by a remote computer system, or a server, which also interacts with other similar flat panel monitors within the network." Both the remote and server means inherently identify the other sites/locations that are within the network, if only because the other sites are within the network.)

16. As per claim 34, EVANICKY et al meet limitations of claim 33, including wherein one or more of said other sites have different types or models of rendering devices (col 6, lines 22-28 disclose at least different types of models for at least one other site. Also see col 17, lines 1-19).

17. As per claim 35, EVANICKY et al meet limitations of claim 33, wherein one or more of said other sites are capable of receiving said measured color of white from said computer system over said network to improve color matching between color rendered

at said sites with said color on said display (see col 6, lines 15-33, wherein at least one site meets the claim limitation. Also see clo 17, lines 1-19).

18. As per claim 36, EVANICKY et al meet limitations of claim 19, wherein said sensor is one of an unitary colorimeter or an imaging colorimeter, said sensor is disposed with respect to said display to measure at least one of reflected or emitted light from said display (see the luminance sensor 800b analogous to at least the imaging colorimeter on col. 18, lines 29-62 disclosing at least measure of emitted light from said display).

19. As per claim 37, EVANICKY et al meet limitations of claim 33, wherein said sites communicate over said network using a data structure comprising at least said information and said measured white point (see col. 6, lines 13-33).

20. As per claim 38, EVANICKY et al meet limitations of claim 33, wherein one or more of said sites (see col. 6, lines 13-33 for remote computer system means) are capable of communicating at least partly wirelessly over said network to one or more other said sites (col 18, lines 14-28 disclose transmission over the World Wide Web) .

Conclusion

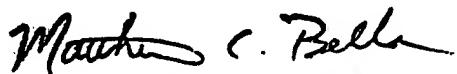
Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J. BLACKMAN whose telephone number is 571-272-7778. The examiner can normally be reached on FLEX SCHEDULE.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8330.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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